

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

SYLVESTER ROGERS, JR., §
§
Plaintiff, §
VS. § CIVIL ACTION NO. C-07-410
§
NUECES COUNTY, *et al*, §
§
Defendants. §

ORDER REGARDING MEMORANDUM AND
RECOMMENDATION ON
CROSS-MOTIONS TO DISMISS

On April 17, 2008, United States Magistrate Judge B. Janice Ellington signed a Memorandum and Recommendation recommending as follows:

- 1) that the Court dismiss from this lawsuit the following defendants: Christus Spohn Hospital; Ramon Castaneda; Julie Livingston; and Pat Jennings;
- 2) that the Court deny Nueces County's Rule 12(b)(6) motion to dismiss (D.E. 23); and
- 3) that the Court grant plaintiff's motion to dismiss Nurse Jane Doe unless plaintiff timely files objections stating he would like for defendant Jane Doe to be retained.

On May 2, 2008, plaintiff filed objections entitled "Motion to Retain Nurse Jane Doe" (D.E. 51).

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and plaintiff's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge as set out below. Accordingly, it is hereby ORDERED as follows:

- 1) Defendants Christus Spohn Hospital, Ramon Castaneda, Julie Livingston and Pat Jennings are dismissed from this lawsuit;
- 2) Nueces County's Rule 12(b)(6) motion to dismiss (D.E. 23) is DENIED;
- 3 Plaintiff's motion to dismiss defendant Nurse Jane Doe (D.E. 43) is DENIED as MOOT; and
- 4) Plaintiff's Motion to Retain Nurse Jane Doe (D.E. 51) is GRANTED.

Plaintiff's claims against defendants Nueces County and Nurse Jane Doe shall remain on the Court's docket.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 21st day of May, 2008.



Janis Graham Jack
United States District Judge